

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE:

B-210123.2

DATE:

April 15, 1983

MATTER OF:

Zero Manufacturing Co.

DIGEST:

1. A bid is nonresponsive where descriptive data required to be submitted with it for evaluation purposes does not show that the item offered meets the invitation's specifications.
2. A statement in a cover letter to a bid that a bidder will furnish an item that meets all IFB specifications does not cure an otherwise nonresponsive bid.
3. Because a bid that does not offer to meet the invitation's material requirements is nonresponsive and must be rejected, the bidder's actual ability to meet those requirements is irrelevant.

Zero Manufacturing Co. protests the rejection of its low bid as nonresponsive under Department of the Army invitation for bids (IFB) No. DAAG47-83-B-0014 for an abrasive airless blast cleaning system. The Army rejected Zero's bid for failure to furnish adequate descriptive data and failure to comply with various IFB specifications. Zero contends that the descriptive data it did submit with its bid, combined with a cover letter to the bid stating that Zero would furnish equipment at least as good as that required by the solicitation, demonstrates that it proposed to supply a product that would meet the Army's needs. Zero also alleges that the Army should have evaluated the firm's ability to perform before rejecting the bid.

We deny the protest.

The IFB required bidders to submit descriptive data with their bids. Bidders were advised that the descriptive data should indicate the characteristics of

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the material offered, including the name of the manufacturer of motors and other components. Bidders also were required to submit prints showing the outline of the machine and its floor space and elevation dimensions.

Zero's bid included a drawing illustrating the basic items of proposed equipment, and literature entitled "General Machine Specification for Cleaning Machine, Centrifugal Abrasive Blasting." The cover letter of the bid stated that while the bid did not address all the solicitation items, the equipment that Zero proposed to supply would be equal to or better than that which the solicitation required. Zero also submitted a brochure entitled "Airless Equipment," but stated in the cover letter that this brochure was intended to show that Zero was a manufacturer of airless blasting equipment, and was not otherwise a part of the bid.

The Army found Zero's bid nonresponsive for various reasons. For example, Zero's descriptive data did not address the machine's dimensions, the part manufacturers, or the characteristics of the machine being offered. The Army also found that Zero failed to comply with other material specifications. As one example, the specifications required that the entire cabinet be lined with wear plates, but Zero proposed to fabricate the cabinet with 1/4 inch steel plates and line only the wear areas with wear plates.

Responsiveness involves whether a bid represents an unequivocal offer to provide the requested items in conformance with the invitation's material terms. Abbott Power Corporation, B-192792, April 30, 1979, 79-1 CPD 295. A bid which does not comply with the material terms is nonresponsive and must be rejected. WFT Service Corp., B-206603, August 31, 1982, 82-2 CPD 190. Moreover, where descriptive data is required to be supplied for use in bid evaluation, the data is a part of the submission for determining if the bid is responsive. Sprague & Henwood, Inc., B-201028, April 6, 1981, 81-1 CPD 260. Accordingly, the bid must be rejected if the data does not clearly show that the offered product complies with the specifications. Amray, Inc., B-205037, February 9, 1982, 82-1 CPD 116.

The IFB clearly required that descriptive data be furnished for the purpose of bid evaluation, and listed specific requirements with which the data was to show compliance. Zero's bid unquestionably did not include data

sufficient to show that it was offering an item that would comply with the specifications as required. Indeed, Zero does not refute that fact, or the Army's conclusion that the bid otherwise did not meet all the material requirements of the IFB. Rather, Zero argues that the combination of the data it submitted and the statement in its cover letter was sufficient for a finding that its bid was responsive. However, although a cover letter is part of a bid for the purpose of determining bid responsiveness, Alderson Reporting Company, Inc.; Ace-Federal Reporters, Inc., B-205552.2, February 12, 1982, 82-1 CPD 128, it is well settled that a blanket statement in a cover letter that the bidder will comply with all material specifications of a solicitation does not render an otherwise nonresponsive bid responsive. See Illinois Chemical Corporation, B-205119, February 9, 1982, 82-1 CPD 119. Thus, the cover letter submitted by Zero did not cure the other defects in its submission.

Finally, Zero argues that the Army should have considered whether Zero was capable of performing in accordance with the Government's requirements before rejecting the bid. Zero's capability, however, is a matter of bidder responsibility rather than bid responsiveness. See Echelon Service Company, B-209284.2, December 2, 1982, 82-2 CPD 499. Because a nonresponsive bid cannot be accepted in any event, it is not necessary to evaluate the bidder's responsibility.

Thus, the Army properly rejected Zero's bid. The protest is denied.

for *F. H. Baulch Jr.*
Comptroller General
of the United States